

Message Text

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C O N F I D E N T I A L ANKARA 3687

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TAGS: CASC TU

SUBJ: WILLIAM HAYES CASE

REF: ANKARA 3227

SUMMARY: THE FOLLOWING IS AN ACCOUNT OF OUR RECENT MEETING WITH PROFESSOR ALACAKAPTAN, WHO GAVE US HIS ASSESSMENT OF POSSIBILITIES FOR HAYES UNDER LAW 647 AND PRESIDENTIAL PARDON PROVISIONS. IN HIS VIEW, A REQUEST FOR A PRESIDENTIAL PARDON ON THE BASIS OF CHRONIC MENTAL ILLNESS APPEARS TO OFFER BEST HOPE AT PRESENT TIME. END SUMMARY.

1. A PRESIDENTIAL PARDON. ALACAKAPTAN SAID HE HAD SPOKEN WITH OFFICIALS IN THE MINISTRY OF JUSTICE, WHO OUTLINED THE FOLLOWING PROCEDURE:

A. HAYER (OR HIS ATTORNEY) WOULD FILE AN APPLICATION WITH THE LOCAL PUBLIC PROSECUTOR, WITH A COPY TO THE MINISTRY OF JUSTICE.

B. THE PUBLIC PROSECUTOR WOULD SEND HAYES TO A LOCAL HOSPITAL (PROBABLY BAKIRKOY) FOR A MEDICAL EXAMINATION.

C. THE FILE, INCLUDING THE MEDICAL REPORT, WOULD THEN BE FORWARDED TO THE INSTITUTE FOR FORENSIC MEDICINE, WHERE A PANEL OF EXPERTS WOULD DECIDE WHETHER, BASED ON THE MERITS, CONFIDENTIAL

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HAYES QUALIFIES FOR A PARDON.

D. IF DECISION IS AFFIRMATIVE, THE FILE (INCLUDING THE INSTITUTE'S RECOMMENDATION THAT HE BE PARDONED) WOULD NEXT BE FORWARDED THROUGH THE PUBLIC PROSECUTOR AND THE MINISTRY OF JUSTICE TO THE PRESIDENT. IF THE INSTITUTE'S DECISION IS NEGATIVE, THE REQUEST WOULD NEVER GO BEFORE THE PRESIDENT FOR CONSIDERATION.

2. ALACAKAPTAN OBSERVED THAT THE CRUCIAL POINT IN THIS PROCEDURE IS THE DECISION OF THE FORENSIC MEDICINE INSTITUTE. (UP TO THAT POINT, THE REQUEST WOULD ORDINARILY BE HANDLED AS A ROUTINE MATTER. THE PUBLIC PROSECUTOR, FOR EXAMPLE, WOULD NOT ON HIS OWN AUTHORITY DENY THE REQUEST.) THE PRESIDENT WOULD MAKE THE FINAL DECISION ON WHETHER TO GRANT THE PARDON, AND WHERE HAVE BEEN CASES IN WHICH HE REFUSED TO PARDON THOSE RECOMMENDED BY THE INSTITUTE.

3. ALACAKAPTAN BELIEVED THAT A CASE BASED ON CHRONIC MENTAL ILLNESS WOULD HAVE SOME CHANCE FOR SUCCESS, BUT NOTED THAT ONLY TWO OR THREE PARDONS PER YEAR ARE NORMALLY APPROVED. NEVERTHELESS, IN HIS OPINION, IT WOULD BE WORTHWHILE FOR HAYES' ATTORNEY TO COMPILE THE MEDICAL RECORDS IN SUPPORT OF SUCH A REQUEST, INCLUDING REPORTS FROM DR. BOGOST AND OTHERS IN THE UNITED STATES WHO HAVE PREVIOUSLY EXAMINED HAYES.

4. REPATRIATION UNDER LAW 647: ALACAKAPTAN REPORTED THAT TWO OF THE SPECULATIVE POSSIBILITIES MENTIONED IN OUR PREVIOUS CONVERSATION - I.E., SUPERVISED PAROLE UNDER THE OUT-OF-STATE PAROLEE SUPERVISION ACT, OR HOLDING HAYES UNDER U.S. FEDERAL CHARGES OF INTENT TO COMMIT A CRIME IN THE U.S. - WERE "NOT RECOMMENDED" BY JUSTICE MINISTRY OFFICIALS. THE MINISTRY, HE SAID, WOULD BE SATISFIED WITH A GUARANTEE FROM EITHER A STATE OR FEDERAL JURISDICTION (CONVEYED THROUGH THE EMBASSY) THAT HAYES' SENTENCE WOULD BE CARRIED OUT. THE MINISTRY DID NOT REPORT NOT TRULY EXPECT RECIPROCITY FOR TURKISH PRISONERS IN THE U.S. (THIS WAS REITERATED TO US IN A SEPARATE CONVERSATION LAST WEEK BY MUSTAFA YUCEL, DEPUTY DIRECTOR OF PRISONS IN THE JUSTICE MINISTRY.)

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5. COMMENT: BASED ON ALACAKAPTAN'S DISCUSSIONS WITH JUSTICE MINISTRY OFFICIALS, THE PRESIDENTIAL PARDON APPEARS TO INVOLVE A ROUTINE, ALTHOUGH SOMEWHAT LENGTHY PROCEDURE. ALTHOUGH THE NUMBER OF PARDONS ACTUALLY APPROVED IS SMALL AND THEREFORE THE CHANCES OF SUCCESS SHOULD BE CONSIDERED LOW, THE PROCESS ITSELF APPARENTLY DOES NOT INVOLVE ANY DEEP POLITICAL WATERS. AS FOR REPATRIATING HAYES UNDER LAW 647, RECIPROCITY IS APPARENTLY NOT A MAJOR

ISSUE WITH THE TURKS. WHILE ALACAKAPTAN'S SOUNDINGS APPEAR TO RULE OUT THE FIRST TWO POSSIBILITIES DESCRIBED IN REFTEL, THE THIRD POSSIBILITY (A DISPOMATIC UNDERSTANDING) HAS NOT YET BEEN FULLY EXPLORED, AND WOULD APPEAR TO CONTINUE TO HOLD SOME HOPE. FOR EXAMPLE, THE SUGGESTION MADE BY PRIMIN ECEVIT TO THE AMBASSADOR ON MAY 6(ANKARA 3457) SOUNDS VERY SIMILAGKTO OUR EARS.

6. WHILE NO COURSE APPEARS TO BE VERY PROMISING, IT WOULD SEEM TO US THAT IT WOULD INVOLVE MINIMUM RISK FOR HAYES' ATTORNEY TO BEGIN COLLECTING EVIDENCE AND TAKING OTHER STEPS IN FILING A REQUEST FOR A PRESIDENTIAL PARDON. MEANWHILE, WITH A VIEW TOWARD LATER TRYING FOR REPATRIATION UNDER LAW 647 IN THE EVENT THE PARDON REQUEST FAILS, WE SUGGEST THAT THE DEPARTMENT EXPLORE IN DETAIL WHAT MIGHT BE INVOLVED UNDER U.S. LAW IN GIVING TO TURKS A GUARANTEE THAT HAYES' SENTENCE WOULD BE CARRIED OUT IN THE U.S.
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